

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Clemens Kujawski
Appl. No.: 10/500,488
Conf. No.: 4524
Filed: June 28, 2004
Title: A METHOD FOR PROVIDING AN OPTOACOUSTIC OPERATOR'S GUIDE
FOR MOBILE RADIO TELEPHONES
Art Unit: 2617
Examiner: Marcos L. Torres
Docket No.: 119065-21

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF

Sir:

This request is submitted in response to the Office Action dated June 25, 2008. This request is filed contemporaneously with USPTO form PTO/SB/33, "Pre-Appeal Brief Request for Review," form PTO/SB/31 and "Notice of Appeal" and Petition for a Two (2) Month Extension of Time.

REMARKS

I. The Rejection to Claims 5-6 and 8-9 under 35 U.S.C. 103(a) as being unpatentable over Swanson (US Pub. 20020141549A1) in view of Glatzer (US Pub. 20050078090A1) is Improper.

(1) The term "Function"

The focus of the argument centers around the generation of the help information (audio and/or visual response) in response to the processing of a partially executed function (the function being, for example turning on a speaker on the mobile device). The Examiner cites Swanson as disclosing a function-- and states that the word operation is almost a synonym for function and at least a related word. In this context, The Examiner asserts that pressing a button (e.g. to turn on the speaker) is not a function, but the device checking if a button is pressed is a function. Assuming *arguendo* that the term is defined in this way, the claimed invention requires a partially executed function (the function is not completed at this time). In Swanson, on the other hand, the function (checking if the button was pressed) is completed in its entirety,

not partially executed. Moreover, it is the pressing of the button that represents the function itself, not the checking of whether the button was pressed.

In response, the Examiner argues that the help signal in Swanson is generated during a partial execution of a “dial operation” (function), and that the dial operation is the main function which is completed when the phone returns to the on-hook state. Applicants respectfully disagree. The dial operation is the act of dialing (and at best dialing and calling). Hence, the dial operation is completed when the “help signal” is returned. Swanson is nothing more than a convention phone system in which a user presses buttons to obtain help or assistance. A help signal is generated in response to the selection or pressing of a button, execution of which is completed. If additional help or assistance is required, another button is selected or pressed.

(2) The term “Help Information”

The Examiner cites Glatzer as providing a visual response as help information (e.g. illuminating a button). However, the visual response in Glatzer is, for example, to train a user how to play a video game (paragraph [0029]) or allow an illiterate person to use the device (paragraph [0019]). The illuminated buttons are pre-set to highlighted keys for a given application for usability improvement (paragraph [0039]). That is, the highlighted keys act proactively to assist the user. The illumination is not in response to a request for help by the user, and therefore is not “help information.” Claim 1, on the other hand, requires that processing of the help signal is “in response to a request for help.” For example, help information is provided for a mobile device without using the screen upon which an application is being executed. That is, if a user requests help, the device uses audio (e.g. voice) and visual (e.g. buttons light up) indications as opposed to text on the screen.

In response, the Examiner notes that Glatzer reads on this limitation without providing additional reasons, but that Swanson discloses this feature nonetheless. Applicants respectfully disagree. While Swanson may generally provide “help information”, it does not do so within the context of Glatzer, and the Examiner does not provide any reason why the skilled artisan would use the “help information” of Swanson to modify the system of Glatzer.

(3) Obviousness

The Examiner notes that the combination of references is proper since in the instant case “the primary reference is directed to a method to explain and indicate features of a device to a user (see title) and the secondary reference is directed to a method to indicate available input and options of a device to a user. Since both [sic] references are directed to help the user to operated the device it would have been obvious...to combine the teachings to prevent invalid input and user frustration.” Applicants respectfully disagree.

As explained in the previously filed response, Swanson uses an audio indication to convey help information, whereas Glatzer uses a visual indication to highlight pre-set input means. There is no reason, for example, why a visual indication would be used in Swanson since the “online help” feature occurs over a telephone. The clear intention here is to provide help through audio information by pressing a “?” symbol. There is only a single button to select to initiate the help information. Glatzer, on the other hand, uses a visual indication in order to improve usability of the device—i.e. in order to better train a user or illiterate person. A combination of the references simply does not make sense. A visual indication on the telephone in Swanson would not provide any “usability improvement” as the audio indication provides all necessary help.

Additionally, the Examiner argues that combining audio with visual content is a “common and well-known technique called audiovisual” which would be obvious to the skilled artisan to use. The Examiner provides no support that this technique was available at the time of invention, nor does the fact alone that “audiovisual” techniques were known provide sufficient support for a combination of the references without imposing impermissible hindsight.

II. The Rejection to Claims 7 and 10 under 35 U.S.C. 103(a) as being unpatentable over Swanson in view of Glatzer, further in view of Hull (US Pub. 20006720863B2) is Improper.

Applicant respectfully traverses the rejection for at least the same reasons provided in the arguments above.

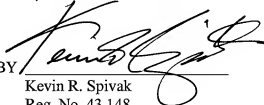
III. Conclusion

In light of the above, the Applicants submit that all the claims are both novel and non-obvious over the prior art of record. Accordingly, the Appellants respectfully request that a

Notice of Allowance be re-issued in this case. If any additional fees are due in connection with this application as a whole, the Director is authorized to deduct said fees from Deposit Account No.: 02-1818. If such a deduction is made, please indicate the attorney docket number (119065-21) on the account statement.

Respectfully submitted,

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BY 

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Dated: November 25, 2008